



Development of Amendments to Rules and New Rules Concerning Public Notification

LSA Document #00-266

Overview

The Indiana Department of Environmental Management (IDEM) has developed amendments to rules and new rules to be presented to the Water Pollution Control Board (board) on August 8, 2001, for consideration of final adoption concerning public notification for violations of drinking water standards and drinking water monitoring and reporting requirements. The rules presented to the board for consideration of final adoption are unchanged from those that the board preliminarily adopted on June 13, 2001. No public comments have been made on these rules during the comment periods or the first public hearing.

Citations Affected

This rulemaking amends: 327 IAC 8-2-1, 327 IAC 8-2-2, 327 IAC 8-2-4, 327 IAC 8-2-4.1, 327 IAC 8-2-5.1, 327 IAC 8-2-5.3, 327 IAC 8-2-5.5, 327 IAC 8-2-7, 327 IAC 8-2-8.4, 327 IAC 8-2-10.2, 327 IAC 8-2-13, 327 IAC 8-2-14, 327 IAC 8-2-20, 327 IAC 8-2.1-3, and 327 IAC 8-2.1-6. This rulemaking also adds: 327 IAC 8-2.1-7, 327 IAC 8-2.1-8, 327 IAC 8-2.1-9, 327 IAC 8-2.1-10, 327 IAC 8-2.1-11, 327 IAC 8-2.1-12, 327 IAC 8-2.1-13, 327 IAC 8-2.1-14, 327 IAC 8-2.1-15, 327 IAC 8-2.1-16 and 327 IAC 8-2.1-17. 327 IAC 8-2-15, 327 IAC 8-2-16, 327 IAC 8-2-17, and 327 IAC 8-2-18 are to be repealed by this rulemaking.

Affected Persons

This rule will affect owners and operators of all public water supply systems in Indiana.

Reason(s) for the Rule

On May 4, 2000, the United States Environmental Protection Agency (U.S. EPA) adopted new regulations concerning public notification. Technical corrections to that rule were also published on June 30, 2000. Indiana is required to adopt these revisions in order to maintain primacy (primary enforcement authority) for the Drinking Water regulations.

Economic Impact of the Rule

There should be a low economic impact for this rule. The average annual cost to public water systems is estimated by EPA at approximately \$329 per system for systems with one (1) or more violations per year. The cost to the state is estimated by EPA to be \$27,548 per year with annual labor hours of one thousand forty-three (1,043) hours per primacy agency. The costs are related to the following: (1) cost of revising the primacy application to incorporate new requirements; (2) costs of consulting with public water systems to clarify notice requirements on a case-by-case basis; (3) costs of receiving and reviewing the public water system compliance certification and copies of the notices; and (4) costs of filing and maintaining the public notification records.

Benefits of the Rule

This rule will serve to educate persons served by public drinking water systems and make them aware of any situation posing a risk to public health. This will allow the public to make educated and informed decisions about its drinking water. It will also allow the public to be notified immediately of urgent public health threats.

Description of the Rulemaking Project

U.S. EPA published final regulations to revise the general public notification regulations for public water systems to implement the public notification requirements of the 1996 Safe Drinking Water Act (SDWA) amendments on May 4, 2000. Technical corrections to that rule were published on June 30, 2000. Owners and operators of public water systems are required to notify persons served when they fail to comply with the National Primary Drinking Water Regulations, have a variance or exemption from the drinking water regulations, or are facing other situations posing a risk to public health. Indiana is required to adopt these revisions in order to maintain primacy (primary enforcement authority) for the Drinking Water regulations.

Scheduled Hearings

First Public Hearing: June 13, 2001, at the WPCB meeting held at the Indiana Government Building South.

Second Public Hearing: August 8, 2001, at the WPCB meeting held at the Indiana Government Building South.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The new and amended rules are consistent with federal rules.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses to comments from the first comment period, a notice of first meeting/hearing, and the draft rule. The Water Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Section, Office of Water Quality, (317) 232-8635 or (800) 451-6027 (in Indiana).